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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,882	03/21/2002	Manfred Schwab	ZAHFRI P409US	4976

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EXAMINER

GIBSON, ERIC M

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/088,882

Applicant(s)

SCHWAB ET AL.

Examin r

Eric M Gibson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to because the blocks in figure 1 require descriptive text labels. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to teach one of ordinary skill in the art how to make or use the claimed invention.

a. Specifically, the specification is silent on how the control signals are formed, how the voice commands are super-imposed onto the control signals, what is considered appropriate for the driving situation to correct the signals. Furthermore, the specification also fails to teach or disclose the system of the invention according to the claimed limitations of claims 12-19. For example:

b. Per claim 12, the specification does not teach or disclose how the voice command device can change the number of gear steps during a reduction ratio during upshifts and downshifts.

c. Per claim 13, the specification does not teach or disclose how the voice command device initiates the special driving programs recited, as well as how those special driving programs are implemented in the current invention.

c. Per claim 14, the specification does not teach or disclose how the voice command device suppresses the creeping of the vehicle.

d. Claims 15-19 contain similar deficiencies with respect to the limitations claimed therein.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 11 recites the limitations "the shift signals" in line 6 and "the driving situation" in line 7. There is insufficient antecedent basis for these limitations in the claim. There is no prior recitation of either a "shift signal" or a "driving situation" in the claim.

b. Regarding claim 13, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

c. Claim 15 recites the limitation "the already engaged reduction ratio" in line 2. There is insufficient antecedent basis for this limitation in the claim. There is no prior recitation of any "reduction ratio" that can be engaged in the claims.

d. Claims 12, 14 and 16-19 are necessarily rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi (US005031100A).

a. As per claim 11, Takahashi teaches a system for shifting a transmission by a driver that includes correcting shift signals of a transmission control (column 2, lines 15-20) using voice commands (column 3, lines 5-8).

b. As per claim 20, Takahashi teaches a method for shifting a transmission by a driver that includes correcting shift signals of a transmission control (column 2, lines 15-20) using voice commands (column 3, lines 5-8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of Graf (US005396420A).

a. As per claim 13, Takahashi teaches the invention as explained in the rejection of claim 11. Takahashi does not teach special driving programs. Graf teaches a control unit for automatic transmissions in motor vehicles that includes a driver selectable shifting characteristic for special driving programs (column 2, lines 39-48). It would have been obvious to one of ordinary skill in the art, at the time of invention, to include the special driving programs of Graf in the system taught by Takahashi, in order to better control the system in accordance with the driver's wishes.

6. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of Everhart et al. (US006240347B1).

a. As per claims 17 and 18, Takahashi teaches the invention as explained in the rejection of claim 11. Takahashi does not explicitly teach a device for releasing voice command. Everhart teaches vehicle accessory control with integrated voice and manual activation that includes a push-to-talk button (column 4, lines 35-51). It would have been obvious to one of ordinary skill in the art, at the time of invention, to include a device for releasing voice command in the system of Takahashi, as taught by Everhart, in order to turn on and off the speech recognition circuitry.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Takahashi and Everhart as applied to claim 17 above, and further in view of Fujimoto et al. (US005214707A).

a. As per claim 19, the combination teaches the invention as explained in the rejection of claim 17. The combination does not teach that the system is available exclusively to the driver. Fujimoto teaches a control system using speech recognition that includes discriminating whether a command comes from a driver's seat to judge the validity of the action (column 2, lines 1-19). Furthermore, Fujimoto teaches that it is desirable to discriminate between the driver and passenger when determining the validity of the command because the driver may not want the actions taken that are spoken by other passengers (column 1, lines 45-47). It would have been obvious to one of ordinary skill in the art, at the time of invention, to discriminate between a command from a driver and passenger to determine the validity of the action in the

system of the combination, in order to ensure that the driver has complete control over the vehicle, as taught by Fujimoto.

Allowable Subject Matter

8. Claims 12 and 14-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

a. As per claims 12, 14, 15, and 16, Takahashi does teach a voice command for operating a transmission, however, the system is only designed to affect the shifting characteristics of the transmission. While many prior art transmission control systems may teach the limitations of the present claims, there is no reasonable suggestion that those systems should be operated via the voice command as is claimed in the present invention.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tsutsui et al. (US005519610A) teaches a control system for an automatic transmission with teaching and automatic modes using a neural network. Zeinstra (US004827520A) teaches a voice actuated control system for use in a vehicle. Hansen (US004776016A) teaches a voice control system. Tokoro (JP02134451A) teaches a shift position determining device of an automatic transmission that includes altering the shift commands on the basis of driver input from an intertalk system. Graf

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(EP0513424A1) teaches a controller with a learning mode for vehicular automatic transmission that has a separate memory for gear-changing characteristics subject to adaptation by a driver for execution when required. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M Gibson whose telephone number is (703) 306-4545. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

EMG
June 15, 2003


MICHAEL J. ZANELLI
PRIMARY EXAMINER